IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16838 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BHARAT N VAIDYA

Appearance:

1. Special Civil Application No. 16838 of 2003

MR HARDIK C RAWAL for Petitioner No. 1

MR PC MASTER for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 28/06/2004

ORAL JUDGEMENT

Rule. Mr.P.C.Master waives service of notice of rule on behalf of the respondent. At the request of the learned advocates for the parties, the petition is taken

up for final hearing forthwith.

2. The short question involved in the present petition is regarding the legality of the order dated 7th April 2003 passed by the Labour Court, Ahmedabad in Recovery Application No.3030 of 1992 filed by the petitioner. It is the case of the petitioner that due to negligence on the part of the Officer of the petitioner, the order came to be passed without any participation from the petitioner and that the same being an ex-parte order requires to be set aside and a chance should be given to the petitioner to present its case. It is also submitted that the Labour Court ought not to have granted the Recovery Application since there was no adjudication of rights between the parties. Mr.P.C.Master however submits that the order of the Labour Court is just and proper and the same may not be interfered with.

3. I have considered the rival submissions made before me. It may be that the petitioner was not represented and the order came to be passed ex-parte, the same however, cannot be allowed to burden the public exchequer since the petitioner is the State Road Transport Corporation simply because some officer of the petitioner was not vigilant in representing the cause of the petitioner Corporation. The petition is, therefore, required to be allowed to the extent that the order of the Labour Court is required to be set aside with a further direction to hear the matter afresh. The petitioner, however, shall have to be put to some terms while allowing the present petition.

4. In this view of the matter, I allow the petition by quashing and setting aside the order dated 7th April 2003 as at Annexure 'A' and remand the matter to the Labour Court for fresh consideration after hearing both sides. Since I have remanded the matter for fresh hearing, needless to say that I am not expressing any opinion on the merits or demerits of the rival versions. Considering the fact that the dispute is pending before the Labour Court since long, the Labour Court is requested to accord priority consideration. The petitioner shall pay cost of Rs.5,000/- (Rupees five thousand) to the respondent.

5. Subject to the above directions and observations, the petition stands disposed of. Rule is made absolute accordingly.

(Akil Kureshi, J.)
(vjn)